

REMARKS

In view of the above amendments and the following remarks, reconsideration of the outstanding office action is respectfully requested.

The rejection of claims 8 and 9 under 35 U.S.C. § 112 (second paragraph) for indefiniteness is respectfully traversed in view of the above amendments.

The rejection of claims 1, 3, 5-9, 16, 18 and 19 under 35 U.S.C. § 112 (first paragraph) for lack of enablement is respectfully traversed in view of the above amendments.

The rejection of claims 1, 3, 5-9, 16, 18 and 19 under 35 U.S.C. § 112 (first paragraph) for lack of written description is respectfully traversed in view of the above amendments.

The rejection of claims 1, 3, 5-8, 16, 18 and 19 under 35 U.S.C. § 102 (b) as anticipated by WO/2002/059377 (Mack I) and under 35 U.S.C. § 102 (e) as anticipated by US Pat. Pub. 2004/0029114 A1 (Mack II) is respectfully traversed. Neither Mack I or Mack II teach or suggest a method as claimed in Claims 1 and 19 which include the particular combination of the four markers claimed. Mack I and II disclose a wide variety of marker genes, but not the claimed combination. Accordingly, the rejection is improper and should be withdrawn.

The rejection of claims 9 and 16 under 35 U.S.C. § 103(a) for obviousness over Mack I in view of US Pat. App. Pub. 2003/0224374 A1 (Dai), and further in view of US Pat. App. Pub 2003/0198972 (Erlander I) and US Pat. App. Pub. 2004/0002067 A1 (Erlander II) is respectfully traversed.

None of the references disclose or suggest the particular cited combination of marker genes as claimed. Accordingly, the rejection is improper and should be withdrawn.

In view of the foregoing, applicants submit that this case is in condition for allowance and such allowance is earnestly solicited.

Respectfully submitted,

March 22, 2010

/karla m. weyand/

Karla M. Weyand
Reg. No. 40,223

Siemens Healthcare Diagnostics Inc.
511 Benedict Avenue
Tarrytown, NY 10591
Telephone: (914) 524-2741